

Zoning Text Amendment No: 05-02  
Concerning: A new Transit-Oriented Mixed  
Use Zone  
Draft No. & Date: 1 – 01/20/05  
Introduced: January 25, 2005  
Public Hearing: March 1, 2005; 7:30 p.m.  
Adopted:  
Effective:  
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: District Council at the request of the Planning Board

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance for the purpose of:

- establishing a new Transit Oriented Mixed-Use Zone

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Add a new Section:

DIVISION 59-C-13

“TRANSIT ORIENTED, MIXED-USE ZONE (TOMX)

*EXPLANATION: **Boldface** indicates a heading or a defined term.*

*Underlining indicates text that is added to existing laws by the original text amendment.*

*[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.*

*Double underlining indicates text that is added to the text amendment by amendment.*

*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*

*\* \* \* indicates existing law unaffected by the text amendment.*

## *ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1     **Sec. 1           DIVISION 59-C-13 is amended as follows:**

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3     **DIVISION 59-C-13       [RESERVED] TRANSIT ORIENTED, MIXED-USE**  
4     **ZONE (TOMX)**

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6     **Sec. 59-C-13.1.   Zones established.**

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8         **59-C-13.11   Zones permitted.**

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10        These zones are permitted in transit station development areas as  
11        defined in Section 59-A-2.1, along the Metro Rail Lines and other  
12        transitways.

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14                TOMX 2.0

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16     **Sec. 59-C-13.2.   Provisions of the Transit Oriented, Mixed Use Zones.**

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18         **59-C-13.21. Description, purpose, intent and general requirements**

19         **59-C-13.211. Description.** Each Transit Oriented, Mixed Use Zone  
20         is intended to be shown on a master plan or sector plan. The TOMX  
21         2.0 Zone is intended for use adjacent to transit stations located outside  
22         Central Business Districts.

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24         **59-C-13.212. Intent.** The intent of the TOMX Zones is to promote  
25         mixed use, transit and pedestrian oriented centers that include housing  
26         and commercial uses. This zone is intended for use in transit station  
27         development areas, as defined in Section 59-A-2.1, outside of the

Central Business Districts. Land shall be classified in any transit oriented, mixed-use zone only if it is recommended in an approved and adopted master plan or sector plan. The TOMX Zones should achieve a development pattern that encourages pedestrian activity and access, promotes use of transit, and creates a coherent arrangement of buildings and uses that contribute to a sense of place. This zone will foster development in accordance with an adopted and approved master or sector plan, by permitting an increase in density, height, and intensity where the increase conforms to the master plan or sector plan. These zones are intended to accomplish the following:

- (a) To promote mixed use, transit oriented development of residential, office, commercial, advance technology and research, and retail uses at various scales and designed in a manner that defines streets and creates a strong sense of place.
- (b) To achieve a compatible mix of uses that promotes street activities, provides convenience for residents and employees.
- (c) To create a pedestrian oriented environment with an interconnected street system that is defined by buildings, open spaces and community facilities, and improves access to transit stations from surrounding communities.
- (d) To provide incentives and flexible standards for mixed-use, transit and pedestrian oriented development that fosters a sense of community with a distinct character.

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- (e) To encourage land assembly in a compact and efficient form in accordance with the approved and adopted master plan and sector plan.
- (f) To provide housing including affordable housing near transit stations.
- (g) To encourage Leadership in Energy and Environmental Design (LEED) standards for sustainable and efficient design.

**59-C-13.213. Additional intent of the TOMX 2.0 Zone.**

The intent of the TOMX 2.0 Zone is to provide a mixed use, transit-oriented center that includes housing and commercial uses. The intent of this zone is to promote medium density residential and commercial development at transit station development areas, as described in Section 59-A-2.1. This zone provides incentives to redevelop areas adjacent to transit and multi-modal stations into distinct and compact mixed-use development for employment, living opportunities, and appropriate public facilities and amenities. Development in this zone must create a network of interconnecting streets, open squares and plazas, defined streetscapes, and civic and community-oriented uses as recommended in applicable master and sector plans.

1        **59-C-13.214. Location.** Land classified in the TOMX 2.0 Zone must  
 2        be located adjacent to an existing or proposed transit station located  
 3        along the Metro Rail lines and other transitways.

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 5        **59-C-13.215. Methods of development and approval procedures.**  
 6        Two methods of development are available in this zoning category.

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 8        (a)    **Standard Method of Development:** The standard method  
 9        requires compliance with a specific set of development  
 10        standards and permits a range of uses and a density compatible  
 11        with these standards. If residential uses are included in a  
 12        development, moderately priced dwelling units must be  
 13        provided in accordance with Chapter 25A. The maximum  
 14        dwelling unit density or residential FAR may be increased in  
 15        proportion to any MPDU density bonus provided on-site. Site  
 16        plans must be approved in accordance with section 59-D-3.

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 18        (b)    **Optional Method of Development:** The Optional Method of  
 19        Development promotes additional densities, and supports  
 20        innovative design and building technologies to create a  
 21        pedestrian-oriented and mixed-use development pattern.  
 22        Approval of the Optional Method of Development is dependent  
 23        on providing sufficient public amenities and facilities. The  
 24        public facilities and amenities are intended to support the  
 25        additional densities permitted under the Optional Method of  
 26        Development. The procedure for the approval of the Optional  
 27        Method of Development is set forth in Section 59-D-2. Site

plans must be approved in accordance with Section 59-D-3. If residential uses are included in a development, moderately priced dwelling units must be provided in accordance with Chapter 25A. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site.

**59-C-13.22. Land uses.**

No use is allowed except as indicated in the following table:

- **Permitted Uses.** The letter "P" in the appropriate column indicates the zones in which each use is permitted, subject to all applicable regulations under the Standard Method or the Optional Method of Development.
- **Special Exception Uses.** The letters "SE" in the appropriate column indicate the zones in which each use may be authorized as a special exception, in accordance with Article 59-G, under the Standard or the Optional Method of Development respectively. Special exception uses in a development under the optional method are subject to approval by both the Planning Board and the Board of Appeals.

	<b><u>TOMX 2.0</u></b>	
<b><u>(a) Residential:</u></b>	<b><u>Standard</u></b>	<b><u>Optional</u></b>
<u>Dwellings</u>	<u>P</u>	<u>P</u>
<u>Group home, small</u>	<u>P</u>	<u>P</u>

<u>Group home, large</u>	<u>P</u>	<u>P</u>
<u>Housing and related facilities for senior adults and persons with disabilities</u>	<u>P</u>	<u>P</u>
<u>Life care facility</u>	<u>P</u>	<u>P</u>
<u>Personal living quarters</u>	<u>P</u>	<u>P</u>
<b>(b) <u>Transportation, communication and utilities:</u></b>		
<u>Public utility buildings, structures and underground facilities</u>	<u>P</u>	<u>P</u>
<u>Radio and television broadcasting studio</u>	<u>P</u>	<u>P</u>
<u>Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room</u>	<u>P</u>	<u>P</u>
<u>Taxicab stand, not including storage while not in use</u>	<u>P</u>	<u>P</u>
<b>(c) <u>Commercial office and retail:</u></b>		
<u>Antique stores, handicrafts or art sales and supplies</u>	<u>P</u>	<u>P</u>
<u>Book store</u>	<u>P</u>	<u>P</u>
<u>Eating and drinking establishment, excluding drive-in</u>	<u>P</u>	<u>P</u>
<u>Drug store</u>	<u>P</u>	<u>P</u>
<u>Florist shop</u>	<u>P</u>	<u>P</u>
<u>Furniture store, carpet or related furnishing sales or service</u>	<u>P</u>	<u>P</u>
<u>Gift shop</u>	<u>P</u>	<u>P</u>
<u>Grocery store</u>	<u>P</u>	<u>P</u>
<u>Hotel</u>	<u>P</u>	<u>P</u>
<u>Office supply store</u>	<u>P</u>	<u>P</u>
<u>Office, general</u>	<u>P</u>	<u>P</u>
<u>Office, professional including banks and financial institutions (excluding check cashing stores and drive-in banks)</u>	<u>P</u>	<u>P</u>
<u>Offices for companies principally engaged in health services, research and development</u>	<u>P</u>	<u>P</u>
<u>Newsstand</u>	<u>P</u>	<u>P</u>
<u>Photographic supply store</u>	<u>P</u>	<u>P</u>
<u>Pet sales and supply store</u>	<u>P</u>	<u>P</u>
<u>Specialty shop</u>	<u>P</u>	<u>P</u>
<b>(d) <u>Services:</u></b>		
<u>Adult foster care homes</u>	<u>P</u>	<u>P</u>
<u>Ambulance or rescue squad, publicly supported</u>	<u>P</u>	<u>P</u>
<u>Animal boarding place</u>	<u>SE</u>	<u>SE</u>
<u>Art, music and photographic studios</u>	<u>P</u>	<u>P</u>
<u>Automobile filling station</u>	<u>SE</u>	<u>SE</u>
<u>Automobile rental services, excluding automobile storage and supplies</u>	<u>P</u>	<u>P</u>
<u>Barber and beauty shops</u>	<u>P</u>	<u>P</u>
<u>Charitable and philanthropic institutions</u>	<u>P</u>	<u>P</u>



<u>Clinic</u>	<u>P</u>	<u>P</u>
<u>Child daycare facility:</u>		
- <u>Family day care</u>	<u>P</u>	<u>P</u>
- <u>Group day care</u>	<u>SE</u>	<u>SE</u>
- <u>Child day care center</u>	<u>SE</u>	<u>SE</u>
<u>Daycare facility for not more than 4 senior adults and persons with disabilities</u>	<u>P</u>	<u>P</u>
<u>Domiciliary care for no more than 16 senior adults</u>	<u>P</u>	<u>P</u>
<u>Dry cleaning and laundry pick-up station</u>	<u>P</u>	<u>P</u>
<u>Duplicating services</u>	<u>P</u>	<u>P</u>
<u>Educational, private institution</u>	<u>P</u>	<u>P</u>
<u>Home occupation, no impact</u>	<u>P</u>	<u>P</u>
<u>Home occupation, registered</u>	<u>P</u>	<u>P</u>
<u>Home occupation, major</u>	<u>SE</u>	<u>SE</u>
<u>Hospice care facility</u>	<u>P</u>	<u>P</u>
<u>Hospitals, veterinary</u>	<u>SE</u>	<u>SE</u>
<u>International public organization</u>	<u>P</u>	<u>P</u>
<u>Place of religious worship</u>	<u>P</u>	<u>P</u>
<u>Publicly owned or publicly operated uses</u>	<u>P</u>	<u>P</u>
<u>Shoe repair shop</u>	<u>P</u>	<u>P</u>
<u>Tailoring or dressmaking shops</u>	<u>P</u>	<u>P</u>
<u>Universities and colleges providing teaching and research facilities</u>	<u>P</u>	<u>P</u>
<b><u>(e) Advanced Technology and Biotechnology:</u></b>		
<u>Laboratories</u>	<u>P</u>	<u>P</u>
<u>Nanotechnology research and development</u>	<u>P</u>	<u>P</u>
<u>Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development</u>	<u>P</u>	<u>P</u>
<u>Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment</u>	<u>P</u>	<u>P</u>
<u>Research, development and related activities</u>	<u>P</u>	<u>P</u>
<b><u>(f) Cultural, entertainment and recreational:</u></b>		
<u>Auditoriums or convention halls</u>	<u>P</u>	<u>P</u>
<u>Billiard parlor</u>	<u>P</u>	<u>P</u>
<u>Bowling alley</u>	<u>P</u>	<u>P</u>
<u>Health clubs and gyms</u>	<u>P</u>	<u>P</u>
<u>Libraries and museums</u>	<u>P</u>	<u>P</u>
<u>Park and playgrounds</u>	<u>P</u>	<u>P</u>
<u>Private clubs and service organizations</u>	<u>SE</u>	<u>SE</u>
<u>Recreational or entertainment establishments, commercial</u>	<u>P</u>	<u>P</u>
<u>Theaters, indoor</u>	<u>P</u>	<u>P</u>

**59-C-13.23. Development standards.**

The development standards applicable to the Standard Method and Optional Method of Development are set forth in this section. In addition to the requirements specified in this table, all Optional Method of Development projects must be consistent with the guidelines established in the applicable master plan or sector plan.

	<b><u>TOMX 2.0</u></b>	
	<b><u>Standard</u></b>	<b><u>Optional</u></b>
<b><u>59-C-13.231.</u></b> <b><u>Minimum Net Lot Area:</u></b>	<u>NA</u>	<u>18,000</u>
<b><u>59-C-13.232.</u></b> <b><u>Maximum Building Coverage (percent of net lot area):</u></b>	<u>75</u>	<u>NA</u>
<b><u>59-C-13.233.</u></b> <b><u>Minimum Public Use Space (percent of net lot area):</u></b> - <u>If moderately priced dwelling units are included.</u>	<u>10</u> <u>5</u>	<u>20</u> <u>20</u>
<b><u>59-C-13.234.</u></b> <b><u>Maximum Density of Development*</u></b>	<u>FAR 0.5</u>	<u>FAR 2.0</u>
<b><u>59-C-11.235.</u></b> <b><u>Maximum Building Heights:</u></b> - <u>If adjoining or directly across the street from land which is recommended for or developed in a residential zone with a maximum of 15 dwelling units per acre or less</u>	<u>50 feet</u> <u>35 feet</u>	<u>NA</u> <u>NA</u>
<b><u>59-C-13.236.</u></b> <b><u>Minimum Setbacks:</u></b> - <u>From an adjacent TOMX Zone**</u> - <u>From an adjacent commercial or industrial zone</u> - <u>From an adjacent single family residential zone</u> - <u>From a public right-of-way</u>	<u>15 feet</u> <u>20 feet</u> <u>25 feet</u> <u>10 feet</u>	<u>NA</u> <u>NA</u> <u>NA</u> <u>15 feet</u> <u>from curbs</u>

\* The maximum residential density (FAR) may be increased in proportion to the amount of the MPDU bonus permitted on-site.

\*\* If the proposed building or the adjacent building has windows or apertures facing the lot line that provide light, access or

1           ventilation to a habitable space the setback shall be 15 feet. If  
2           the adjacent building does not have windows or apertures no  
3           setback is required.

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5           **59-C-13.237.       Special standards and guidelines for Standard**  
6           **Method and Optional Method of Development projects.**

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8           (a)   Public use space, amenities and facilities: The mixed-use  
9           character of the Transit Oriented, Mixed Use Zone requires  
10          significant public amenities to create a transit and pedestrian-  
11          oriented and mixed-use environment.

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13          Public amenities and facilities are not limited to the definition  
14          in Section 59-A, but also include: pocket and urban parks,  
15          town squares, public plazas and water features, wide sidewalk  
16          areas, bus shelters, benches, special street lighting and paving,  
17          construction and enhancement of pedestrian tunnels and  
18          bridges, public art, landscaping of public areas, and  
19          improvements to pedestrian access to transit stations. Public  
20          amenities do not include road improvements or other capital  
21          projects that are required to provide adequate facilities in a  
22          timely basis to serve the property.

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24          All public amenities should be in locations that are accessible  
25          and welcoming to the public. The location, type and nature of  
26          the public amenities must be shown on any project plan and site  
27          plan as required by Section 59-D-3 and Section 59-D-2.

(b) Site Design Guidelines for the Optional and Standard Method of Development:

- Orient all buildings to streets, which will encourage pedestrian-oriented development.
- Locate off-street parking to the side, rear or below grade if feasible.
- Create a continuous building line with varied facade setbacks to accentuate open space and building entrances. Blank building facades should be avoided.
- Increase public safety and activity at street level with activating uses such as storefront retail, residential entrances, office lobbies, and restaurants.
- Provide continuous, direct and convenient pedestrian and bicyclist pathways, and connections to transit stations.
- Ensure pedestrian safety with clearly designated crosswalks and sidewalks, and include street trees and landscaping on all streets.
- Screen and locate service and loading areas to reduce visibility from any street.
- Locate mechanical equipment within buildings or within a mechanical equipment penthouse. If mechanical equipment is located on a roof or is freestanding, it must be effectively screened.

(c) Streetscape Guidelines:

- = Provide street lighting designed to avoid an adverse impact on surrounding uses, while also providing a sufficient level of illumination for access and security.
- = Provide a canopy of closely spaced street trees along each street.
- = Provide street furniture such as benches, trash receptacles and planters.
- = Enhance crosswalk areas with accessible curb ramps and crossing signals unless prohibited by the Director.

**59-C-13.238. Special standards for the Optional Method of Development.**

- (a) **Density and mix of uses:** In approving the mix of uses and the proposed densities, the Planning Board shall consider the size of the parcel, and the relationship of the existing and proposed building or buildings to the surrounding uses. The mix of uses and the proposed densities must conform to the approved and adopted master plan or sector plan.
- (b) **Building height:** The maximum building height permitted for any building shall be determined in the process of project plan review. In approving height limits, the Planning Board shall take into consideration the size of the lot or parcel, the relationship of existing and proposed buildings to surrounding

uses, the need to preserve light and air for the residents of the development and residents of surrounding properties, and any other factors relevant to the height of the building. The proposed building height must conform to the approved and adopted master plan or sector plan.

- (c) **Transfer of public use space and density:** The transfer of public use space and density between lots within the same transit station area is permitted. The transfer of density should be located toward the transit station and away from the boundaries of the transit station development areas. Any transfer of public use space and density must be approved as part of a combined project plan and site plan for all relevant parcels in accordance with the provisions in Section 59-D-2 and Section 59-D-3.

**59-C-13.239. Existing buildings and building permits.**

- (a) Any existing structure or established use for which a building permit was issued prior to the reclassification of land to the TOMX Zone must not be regarded as a nonconforming structure or use and will not be subject to the provisions of Section 59-G-4.1, et. Seq. for a period of seven years.
- (b) For seven years after the reclassification, such structure or use may be altered, repaired, reconstructed or enlarged in conformance with the development standards in the zone in effect prior to the reclassification. Any enlargement in excess of

10% of the gross floor area will require approval of a site plan  
in accordance with Section 59-D-3.

(c) After seven years, such a structure or use would be  
nonconforming and any change in the structure or use thereafter  
must be in conformance with the provisions of Section 59-G-  
4.1, et. Seq.

(d) Notwithstanding any language in this subsection, any existing  
structure or use may be altered, repaired, reconstructed or  
enlarged in conformance with the development standards of the  
TOMX Zone prior to expiration of the seven year period.

**Sec. 2. Effective date.** This ordinance becomes effective 20 days  
after the date of Council adoption.

This is a correct copy of Council action.

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Elda M. Dodson, CMC

Acting Clerk of the Council